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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

BRIAN CHARLES SULLIVAN,

Defendant and Appellant.

C061022 & C061109

(Super.Ct.Nos. 081524,
08F4503, 08F8085,
08F8938 & 08F10457)

On November 20, 2007, Lisa Karnes noticed that a \$600 check made out to her by an employer was missing. The check was deposited into the account of defendant, Brian Charles Sullivan, on November 26, 2007. Defendant was charged with forgery, petty theft having been previously convicted of theft, receiving stolen property, and grand theft of lost property. (Case No. 08F04503.)

On February 5, 2008, officers stopped defendant for driving erratically. Methamphetamine was spread across the driver's seat, on the floor board, and in front of the rear passenger's seat.

Defendant was charged with multiple drug crimes. (Case No. 08F01524.)

Defendant stole his aunt's checkbook, and on August 29, 2008, August 31, 2008, and September 1, 2008, wrote 16 separate checks at various businesses throughout Redding, Chico and, Red Bluff. The total amount of checks written was over \$5,000. Defendant was charged with three counts of second degree commercial burglary, four counts of forgery, three counts of petty theft having been previously convicted of theft, and two counts of grand theft of personal property. (Case No. 08F08938.)

On September 6, 2008, defendant broke into Brian Ottman's car, stole his wallet, and purchased a chain saw and accessories using Ottman's Visa credit card. Defendant was charged with the fraudulent use of an access card, second degree commercial burglary, grand theft of personal property, and receiving stolen property. (Case No. 08F08085.)

On November 19, 2008, defendant entered negotiated pleas of guilty to one count of possessing a controlled substance (case No. 08F01524) and no contest to one count of forgery (case No. 08F4503), one count of second degree burglary and one count of receiving stolen property (case No. 08F08085), and three counts of second degree burglary (case No. 08F8938). The remaining counts were dismissed with a *Harvey* waiver. (*People v. Harvey* (1979) 25 Cal.3d 754.) It was agreed the minimum term and maximum term he might receive would be five years and seven years, respectively, and if he were sentenced to six years or less, he could request a commitment to the California Rehabilitation Center. The parties

stipulated to a factual basis based on the police reports in the file.

Probation was denied on December 5, 2008. Because of his numerous prior convictions, an aggregate term of seven years was imposed, and defendant was ordered to pay a \$670 fine, a \$162.50 criminal lab fee in case No. 08F01524, a \$400 restitution fine, and to provide DNA samples and register as a drug offender. He was also ordered to pay restitution to the specific victims of his theft crimes.

On December 17, 2008, a complaint filed in case No. 08F-10457 charged defendant with fraudulent use of an access card, fraudulent use of another's access card, second degree commercial burglary, petty theft having been previously convicted of theft, receiving stolen property, and committing the crimes while he was on bail.

Defendant pled no contest to fraudulent use of another's access card and agreed to be sentenced to an eight-month term to be served consecutively to the prison term he was then serving. He was ordered to pay a court security fee, a crime prevention fee, and a \$200 restitution fund fine.

Defendant appeals both dispositions, but did not obtain certificates of probable cause. (Pen. Code, § 1237.5.)

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of

filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

The judgment is affirmed.

SCOTLAND, P. J.

We concur:

HULL, J.

ROBIE, J.